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Fitbit, Inc.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

IMMERSION CORPORATION,

Plaintiff,

v.

FITBIT, INC.,

Defendant.

CASE NO. 5:17-cv-03886-LHK

**JOINT NOTICE PURSUANT TO THE
COURT'S FEBRUARY 23, 2018 ORDER
(DKT. NO. 58) DIRECTING PARTIES
TO PROVIDE ADDITIONAL
INFORMATION ON CLAIM
CONSTRUCTION DISPUTE THAT
COULD AFFECT THE PENDING
MOTION TO DISMISS**

Judge: Honorable Lucy Koh
Complaint filed: July 10, 2017

Pursuant to the Court's February 23, 2018 Order Directing the Parties to Provide Additional Information on Claim Construction Dispute that Could Affect the Pending Motion to Dismiss (Dkt. No. 58),¹ Defendant Fitbit, Inc. ("Fitbit") and Plaintiff Immersion Corporation ("Immersion") (collectively, "the Parties") hereby identify the following two terms that the Parties agree should be construed as means-plus-function terms under 35 U.S.C. § 112(f), along with the Parties' respective proposed constructions (including disputes related to corresponding structure):

Patent	Claim Term or Phrase	Plaintiff's Proposed Construction	Defendant's Proposed Construction
8,059,105	"one or more processors configured to receive an input signal and generate a force signal based on the input signal, wherein the input signal is associated with a user-independent event" (Claim 19)	<u>Function:</u> receive an input signal and generate a force signal based on the input signal, wherein the input signal is associated with a user-independent event <u>Structure:</u> A microprocessor or other electronic controller, or equivalents thereof, that performs the algorithm of receiving an input signal associated with a user-independent event, and generating one or more electronic signals that define the form of a haptic effect based on the user-independent event applied to a touch device.	<u>Function:</u> receive an input signal and generate a force signal based on the input signal, wherein the input signal is associated with a user-independent event <u>Structure:</u> The corresponding structure for "one or more processors" is a microprocessor or other electronic controller, or equivalents thereof. It is Fitbit's position that the specification fails to disclose a sufficiently-specific algorithm for carrying out the function on the microprocessor or other electronic controller, such that the claim term is indefinite.
8,351,299	"a processing device that receives the sensor output and accumulates counts associated with the sensor output, the processing device"	<u>Function:</u> receives the sensor output and accumulates counts associated with the sensor output, and provides an output to the vibrotactile device once a threshold associated with the accumulated counts is reached	<u>Function:</u> receives the sensor output and accumulates counts associated with the sensor output, and provides an output to the vibrotactile device once a threshold associated with the accumulated counts is reached

¹ Fitbit's position is that the Parties' claim construction disputes, either those described here and in Immersion's notice (Dkt. No. 56) or more generally in the Parties' claim-construction exchanges, do not affect the Court's § 101 analysis.

	providing an output to the vibrotactile device once a threshold associated with the accumulated counts is reached.” (Claim 14)	<u>Structure:</u> Processing device 22 and equivalents thereof, that performs the algorithm in Figure 3 and generates one or more electronic signals that define the form of a haptic effect.	<u>Structure:</u> The corresponding structure for “a processing device” is Processing device 22 and equivalents thereof. It is Fitbit’s position that the specification fails to disclose a sufficiently-specific algorithm for carrying out the function on the Processing device 22 or equivalents thereof, such that the claim term is indefinite.
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DATED: February 23, 2018

Respectfully submitted,

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DATED: February 23, 2018

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ATTESTATION

Pursuant to Civil Local Rule 5-1(i)(3) regarding signatures, I attest that concurrence in the filing of this document has been obtained from the other signatories.

DATED: February 23, 2018

/s/ Adam R. Alper
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